



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 23RD DAY OF DECEMBER 2025
BEFORE
THE HON'BLE MRS JUSTICE GEETHA K.B.
CRIMINAL REVISION PETITION NO. 100075 OF 2020
(397(CR.PC)/438(BNSS))**

BETWEEN:

MEHABOOB PASHA S/O. SABOOBSAV
AGED ABOUT: 40 YEARS,
R/AT KAATA MOHALLA COLONY,
N-H 4 NEAR OLD MADRASA ROAD,
HOSAKOTE, KOPPAL-583231.

...PETITIONER

(BY SRI MAHAMMED TAHIR AND SRI SABEEL AHMED,
ADVOCATES;
SRI WAQAR AHMED SHAHPURI, ADVOCATE (NOC OBTAINED)

AND:

STATE OF KARNATAKA
THROUGH KUSHTAGI POLICE STATION,
REP. BY H.C.G.P.,
DHARWAD HIGH COURT BENCH.

...RESPONDENT

(BY SRI JAIRAM SIDDI, HCGP.)

THIS CRIMINAL REVISION PETITION IS FILED UNDER SECTION 397 READ WITH SECTION 401 OF CR.P.C. PRAYED FOR CALLING FOR THE ENTIRE RECORDS OF C.C.NO.24/2010, ON THE FILE OF CIVIL JUDGE AND JMFC AT KUSHTAGI, TO SET ASIDE THE IMPUGNED ORDER OF APPELLATE COURT I.E., PRINCIPAL DISTRICT AND SESSIONS JUDGE, KOPPAL, IN CRIMINAL APPEAL NO.32/2017 VIDE ORDER DATED 30TH NOVEMBER 2019, AND TO CONFIRM THE SENTENCE OF CONVICTION AT ANNEXURE-A AND IMPUGNED ORDER OF SENTENCE AND ORDER PASSED BY THE PRINCIPAL CIVIL JUDGE AND JMFC AT KUSHTAGI DATED 05TH DECEMBER 2017 PASSED IN C.C.NO.24/2010 CONVICTING THE PETITION FOR THE

Digitally signed
by BHARATHI H
M

Location: HIGH
COURT OF
KARNATAKA
DHARWAD
BENCH

Date: 2025.12.23
17:35:27 +0530



OFFENCE PUNISHABLE UNDER SECTION 279, 304-A OF IPC AND 187 OF THE M.V.ACT AND SENTENCE FOR THE OFFENCE UNDER SECTION 279 OF IPC 3 MONTH SIMPLE IMPRISONMENT WITH RS.500/- FINE IN DEFAULT 15 DAYS OF SIMPLE IMPRISONMENT; UNDER SECTION 304-A OF IPC, 6 MONTHS SIMPLE IMPRISONMENT WITH RS.2000/- FINE, IN DEFAULT OF FINE 1 MONTH SIMPLE IMPRISONMENT AND UNDER SECTION 187 OF M.V.ACT, 1 MONTH SIMPLE IMPRISONMENT WITH RS.500/- FINE, IN DEFAULT 15 DAYS OF SIMPLE IMPRISONMENT AT ANNEXURE-B AND TO ACQUIT THE PETITIONER OF THE ALLEGED OFFENCE UNDER SECTION 279 AND 304-A OF IPC AND 187 OF M.V.ACT, IN C.C.NO.24/2010 ON THE FILE OF PRINCIPAL CIVIL JUDGE AND JMFC, AT KUSHTAGI, BY ALLOWING THIS REVISION PETITION AND TO GRANT SUCH OTHER RELIEF/S AS THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCES OF THE CASE, IN THE ENDS OF JUDTICE AND EQUITY.

THIS CRIMINAL REVISION PETITION COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Heard both sides on merits of the revision petition.

2. This revision petition is filed by the revision petitioner under Section 397 read with Section 401 of Cr.P.C. praying for setting aside the judgment of conviction and order of sentence passed in C.C.No.24/2010 dated 05.12.2017, on the file of Civil Judge and JMFC, Kushtagi, which is confirmed in Criminal Appeal No.32/2017 dated



30.11.2019, on the file of Principal District and Sessions Judge, Koppal.

3. The revision petitioner was convicted for the offence punishable under Sections 279, 304-A of IPC and Section 187 of the M.V.Act.

4. The revision petitioner was sentenced to undergo simple imprisonment for a period of three months and to pay a fine of ₹500/- for the offence punishable under section 279 of IPC; in default to pay fine amount, to undergo simple imprisonment for a period of 15 days; he is directed to undergo simple imprisonment for a period of six months and to pay a fine of ₹2,000/- for the offence punishable under Section 304-A of IPC; in default to pay fine amount, to undergo simple imprisonment for a period of one month; and also directed to undergo simple imprisonment for a period of one month and to pay fine of ₹500/- for the offence punishable under Section 187 of the M.V.Act; in default to pay fine amount, to undergo simple



imprisonment for a period 15 days and all the above said sentences shall run concurrently.

5. On plain reading of this sentence imposed by the learned JMFC, the total sentence was only 06 months, because all the sentences were ordered to run concurrently and for default sentence it is further period of 02 months, i.e., totally 08 months simple imprisonment the accused/revision petitioner has to undergo.

6. The judgment of learned JMFC reveals that the revision petitioner was arrested on 10.12.2009 and released on bail on 16.05.2011. Thus, he was in JC for a period of about 17 months. However, he had to undergo simple imprisonment for only 08 months. Thus, more than double the punishment he has already undergone.

7. Section 428 of Cr.P.C. (Section 467 of BNSS) reads as under:

428. Period of detention undergone by the accused to be set off against the sentence of



imprisonment.— Where an accused person has, on conviction, been sentenced to imprisonment for a term, not being imprisonment in default of payment of fine, the period of detention, if any, undergone by him during the investigation, inquiry or trial of the same case and before the date of such conviction, shall be set off against the term of imprisonment imposed on him on such conviction, and the liability of such person to undergo imprisonment on such conviction shall be restricted to the remainder, if any, of the term of imprisonment imposed on him

Provided that in cases referred to in section 433A, such period of detention shall be set off against the period of fourteen years referred to in that section.

8. As per Section 428 of Cr.P.C. (Section 467 of BNSS), the accused/revision petitioner is entitled for set off of the period of main imprisonment which he has already undergone during investigation, inquiry and trial, but it does not include the period of default sentence for non payment of fine amount.

9. However, as discussed above, instead of 06 months, he has already undergone 17 months imprisonment and thus the period of default sentence



cannot be added to it. The order sheet of this Court reveals that subsequent to this judgment and order of conviction passed by the learned JMFC, which is upheld in Criminal Appeal, this revision petitioner was in JC from 14.02.2020 till he was released on 28.02.2000 i.e., for a period of 15 days.

10. These aspects establish that, the revision petitioner has already undergone imprisonment of sentence more than what he had to undergo.

11. Learned counsel for revision petitioner is ready to deposit the fine amount imposed for the offence punishable under Section 279 and 304-A of IPC totally amounting to Rs.2,500/-. He has already undergone imprisonment of 15 days default sentence after passing the judgment of conviction for the offence punishable under Section 187 of the M.V.Act. Hence, discussing the case on merits does not arise.



12. For the above reasons, I proceed to pass the following:

ORDER

i) The revision petition filed under section 397 of Cr.P.C is partly allowed.

ii) The revision petitioner is entitled to set off under Section 428 of Cr.P.C. (Section 467 of BNSS), the period of imprisonment he has already undergone during investigation and trial and thus he has already undergone major punishment imposed against him. He has to undergo only default sentence, for which learned counsel for revision petitioner has undertaken to deposit the fine amount totally amounting to Rs.2,500/- within 15 days from the date of uploading this order.

iii) If the said amount is deposited as ordered, then it shall be treated as the revision petitioner has completed



the entire sentence imposed against him, hence, considering the matter on merits does not arise.

iv) In case if the revision petitioner fails to deposit the total fine amount of ₹2,500/-, then he has to undergo default sentence of simple imprisonment imposed for the offences punishable under Section 279 and 304-A of IPC.

**Sd/-
(GEETHA K.B.)
JUDGE**

SH, MRK
Ct:VH
List No.: 2 Sl No.: 1